

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X	Docket#	
UNITED STATES OF AMERICA,	:	05-cr-508 (ERK)
	:	
- versus -	:	U.S. Courthouse
	:	Brooklyn, New York
AKRAM ISMAIL,	:	
Defendant	:	October 12, 2006
-----X		

TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE EDWARD R. KORMAN
UNITED STATES DISTRICT JUDGE

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1 THE CLERK: United States v. Akram Ismail.

2 Your appearances, counsel.

3 MR. NORKIN: Walter Norkin for the government.

4 Good afternoon, your Honor.

5 THE COURT: Hi.

6 MR. NORKIN: And with me, your Honor, are
7 Federal Air Marshals John Balder and Scott Carpenter
8 (ph.).

9 MR. SHARGEL: Gerald Shargel, Emilio Grillo and
10 Evan Lipton for Dr. Ismail.

11 Good afternoon.

12 THE COURT: Mr. Ismail, have you read the
13 presentence report?

14 THE DEFENDANT: Yes.

15 THE COURT: All right. I am ready to hear you.

16 MR. SHARGEL: Well first we have guidelines
17 issues. There are two issues that survived. One is that
18 -- well it may not survive in light of Mr. Garoppolo's
19 comments but we've got the addendum to the presentence
20 report. They stuck by their guidelines analysis.
21 There's a two level enhancement for obstruction and
22 Mr. Garoppolo said that he didn't find -- he said it was
23 a close call. He says, "I concede on the two level
24 enhancement for obstruction of justice as a close call
25 and a necessary element of a willful intent to mislead

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1 with his testimony. We made a submission on this, Judge
2 and I don't believe that this is the kind of testimony
3 that would require an enhancement under 3(c)(1.1).

4 THE COURT: Well, you know --

5 MR. SHARGEL: The other guidelines issue -- do
6 you want me to do both of them?

7 THE COURT: Well let him address it.

8 MR. NORKIN: Your Honor, the government also
9 made a submission on this and we do think this is the
10 kind of thing that would call for an enhancement. And in
11 fact, the full sentence by Mr. Garoppolo is that I
12 believe the advisory guideline range in the report, 18 to
13 24 months is correctly computed. The language was pretty
14 unequivocal. I understand counsel now states that there
15 was confusion and there was different testimony but the
16 kind of testimony that was given by the defendant is
17 something that would fall in the government's view within
18 the obstruction of justice category.

19 MR. SHARGEL: Can I say one thing in response?
20 There were a number of witnesses who testified here that
21 gave contradictory testimony about what had occurred
22 hurriedly in a matter of a minute or two.

23 THE COURT: I agree that it doesn't warrant two
24 points.

25 MR. SHARGEL: And, Judge, the other issue deals

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1 with the physical contact.

2 THE COURT: We're dealing here with deliberate
3 perjury and, you know, who knows which recollection was
4 the most accurate. The jury's verdict was clearly
5 supported by the record. But that doesn't mean he lied
6 deliberately. So where is it? What page are we on?

7 THE CLERK: What paragraph?

8 MR. SHARGEL: One moment, Your Honor, please.

9 MR. NORKIN: It's paragraph 17, obstruction of
10 justice.

11 THE COURT: Okay. What else?

12 MR. SHARGEL: The three level enhancement for
13 physical contact. You may recall that you charged the
14 jury that they could only find an resisting arrest under
15 this statute if there was physical contact. Then the
16 guidelines 2(a)(2.4)(A). under that guideline, the
17 application -- the enhancement is actually
18 2(a)(2.4)(B)(1). There's an enhancement for physical
19 contact. Whether it's a question of fairness, whether
20 it's a question of interpretation, it would seem to me
21 that the enhancement essentially raises the base offense
22 level to 13 rather than 10. The base offense level was
23 10 for the conduct and then three for physical contact,
24 but as your Honor instructed the jury, there could not be
25 a finding of guilt beyond a reasonable doubt unless they

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1 found as an element of the offense that it was physical
2 contact.

3 So I have read all of the double-counting
4 cases. I don't know that it's double-counting in the
5 traditional sense. I don't know if it's a Lauerson (ph.)
6 issue but I don't see how -- essentially, he is being
7 punished twice for physical contact.

8 THE COURT: In other words, I assume your
9 argument is that this is necessarily included in the base
10 level because that's the offense.

11 MR. SHARGEL: Exactly.

12 THE COURT: That's an interesting argument.
13 What's the answer to that?

14 MR. NORKIN: Well we agree again with the
15 probation department here and cited cases that you don't
16 need physical contact to be convicted of 18 USC 111. The
17 reason you charge forceable conduct is because the
18 government said that we only wanted that kind of
19 conviction, a felony of the highest of the various levels
20 that would be necessary to be guilty under Section 111.
21 So this is not a double-counting. It's a proper
22 enhancement for a type of Section 111 violation.

23 THE COURT: So what you're saying -- let me be
24 sure I understand, so what you're saying is that the base
25 level offense would have been the same, even if there

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1 were no finding of physical contact.

2 MR. NORKIN: That's correct.

3 THE COURT: And did I give the jury a separate
4 verdict sheet or I just instructed them that way?

5 MR. NORKIN: No, you --

6 MR. SHARGEL: You had instructed them that in
7 order to find him guilty of that count, they have to find
8 physical contact.

9 MR. NORKIN: You asked the government first if
10 we wanted to break it up and if -- I recall correctly,
11 your Honor, and the government's position was that we
12 were not interested in the jury finding him guilty of a
13 misdemeanor or anything less than the highest. And so
14 therefore, that -- the instruction was just for forceful
15 contact.

16 THE COURT: I think that that's -- I don't
17 think it's double-counting. Forget about what the cases
18 say about double-counting. I don't see it as -- it's an
19 aggravated form of this offense. If I understand what
20 you're arguing correctly -- maybe I don't. If I hadn't
21 charged physical contact, the juries could have only
22 convicted him of a misdemeanor.

23 MR. SHARGEL: No, no. Because the only thing
24 you charged was assault with physical conduct.

25 THE COURT: I know, but I am going to - I

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1 hadn't charged physical contact. The jury could have
2 convicted him --

3 MR. NORKIN: Correct, of a misdemeanor --

4 THE COURT: -- but only a misdemeanor.

5 MR. NORKIN: -- Section -- it's the same
6 section but it would have been a misdemeanor violation,
7 as opposed to a felony. It would not have been
8 punishable by over a year.

9 THE COURT: And what is a level 10? What is
10 the punishment for a level 10?

11 MR. SHARGEL: It's in the B zone, 6 to 12
12 months.

13 THE COURT: Why don't we go on and see whether
14 it makes a difference. What is the sentence with a -- as
15 a 13, what are the guidelines for the moment?

16 MR. NORKIN: I don't have 13 here.

17 THE CLERK: 12 to 18 months, Judge.

18 THE COURT: All right.

19 MR. SHARGEL: May I be heard then?

20 THE COURT: Yes.

21 MR. SHARGEL: Judge, I would like to get right
22 to the point. I understand -- and this is the first time
23 I saw this recommendation by Mr. Garoppolo four months --

24 THE COURT: You want more time to respond to
25 it?

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1 MR. SHARGEL: No, no, no.

2 THE COURT: Okay.

3 MR. SHARGEL: I've ample time to respond to it
4 because it's a very simple point. And it's a point that's
5 compelling. The compelling point is that I couldn't
6 think of a more destructive result here than a prison
7 sentence for Dr. Ismail and I would like to tell you just
8 exactly why.

9 This is someone who since he was arrested in
10 this case in 2005, has done everything that he could
11 possibly do to put his life back together. This is not
12 someone who was simply arrogant. This is someone who was
13 under enormous stress and there's no question about that.
14 There's nothing in the government's letter that suggests
15 otherwise.

16 Your Honor knows that he suffered from as the
17 probation department found, cyclothymic disorder, a
18 disorder concerning depression. But not only that, his
19 wife has been struggling with addiction. She was
20 confined several times for her addiction. There are four
21 young children here. She is a woman who is incapable of
22 caring for the children. She is at home now. She is
23 back from her place of confinement but she is home now.
24 She sees a psychiatrist twice a week. This is a very,
25 very difficult circumstance. Dr. Ismail at the time of

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1 this offense was under enormous stress. He has done
2 everything he could to put his life back in order. His
3 reputation was destroyed in the small town in which he
4 practices medicine. He has worked very hard to
5 rehabilitate that situation. He is just getting his
6 practice -- he is just getting back on his feet and if he
7 were sentenced to prison for any period of time, his
8 practice would be destroyed. He couldn't suffer another
9 blow. He couldn't suffer a headline and there were
10 headlines in the paper that said that Dr. Ismail was
11 convicted of this crime. It received a great deal of
12 attention in Florida. And the idea that he would have to
13 leave his practice and leave his family, leave his wife,
14 and go off to prison, I think is just fundamentally
15 unfair.

16 I don't know if Mr. Garoppolo, and you know I
17 have the deepest respect for him, but I don't know if he
18 read the submission that was made on behalf of Dr.
19 Ismail. I don't know if he read the letters from
20 patients, from other doctors that support him and talk
21 about his good deed. This man has been successful in
22 putting his life back together.

23 You know what Mr. Garoppolo says in the last
24 sentence, he says, I think -- and I will read it in its
25 entirety, no 106 problem here, "I think that kind of a

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1 sobering experience," talking about a term of
2 imprisonment, "is necessary and will do him some good."

3 He has had this sobering experience. He is
4 being monitored by the Physician Resources Network. If
5 you look at the contract that we have in our memorandum,
6 we show that he has the strictest supervision, urine
7 testing, psychiatric care, careful monitoring. This
8 appears under tab A. We have letters from the
9 Physician's Network, the Resources Network and they say
10 he's been successful. He's been compliant. He's in
11 therapy once a week.

12 He is dealing with his depression. He is
13 dealing with all of these circumstances. And this -- the
14 idea of going to prison and leaving his environment for
15 any period of time, not being able to participate in the
16 Physician's Resources Network will destroy this man. You
17 don't hear me say that in every case that I appear before
18 you. I firmly believe that this -- that four months or
19 four days would literally destroy this man. You're going
20 to send a man who is suffering from depression, who has
21 faced a devastating blow to his career, he's putting his
22 life back together, the post-arrest rehabilitation has
23 been extraordinary, he no longer drinks, he no longer is
24 suffering from the kind of condition that caused his
25 behavior in the first place.

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1 I recognize that there was an earlier incident.
2 I recognize the events that took place here that led to
3 this conviction; I understand all of that. But I think
4 that Dr. Ismail needs continued monitoring. I think that
5 he has to have the opportunity to put his life back
6 together. He has four very young children. He has twins
7 who are three years old. He has a ten year old daughter
8 and an eight year old daughter.

9 And to suggest that prison is an appropriate
10 result here, I respectfully submit to your Honor that if
11 there's any case that cries out for a non-custodial term,
12 this is that case. I can't think of a case more
13 compelling for a non-custodial term than this case. And
14 I ask you, as a matter of reason and fairness, to impose
15 a non-custodial term.

16 The probation department -- the probation
17 officer that wrote the report said that apart from the
18 guidelines, that there are mitigating factors here; his
19 own condition of depression, his spouse's condition, care
20 for the children. That's what the probation officer
21 said. And to suggest that -- look, a sobering
22 experience, I understand that but he has had a sobering
23 experience. You don't think that for a man like Dr.
24 Ismail to come to this courtroom and go through this
25 process that it wasn't sobering, but it wasn't only that.

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1 I invite your Honor to look at this contract that appears
2 under the tab and look at what he is required to do and
3 you have the letters from the treating psychiatrist
4 saying that he is making progress. This is just going to
5 make the whole thing go backwards. This is -- I can't
6 say the word often enough. This would be total
7 devastation and destruction if he were sent away.

8 Prison is not the answer to everything. I know
9 we come near the point where it's almost common place
10 that prison's a good idea, prison is sobering, prison is
11 helpful. Prison is not a good idea here. Prison is an
12 awful idea here.

13 MR. NORKIN: Your Honor, this is a defendant
14 who never accepted and still doesn't accept
15 responsibility for his actions. He accepts
16 responsibility for the results in that he was convicted
17 in a court but he is not someone who has accepted
18 responsibility for what he did, the damages that he did
19 in doing those actions for all of the passengers who were
20 on board the plane.

21 He had very similar conduct almost identical,
22 except it was in a car except than rather on a plane the
23 last time and at that time, he got a slap on the wrist.

24 The things that defense counsel say are
25 compelling about his situation, that it would hurt his

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1 business and hurt is family is the same thing that
2 applies to any defendant and there's no reason that this
3 defendant should get different treatment and better
4 treatment because he's a doctor. He should be treated
5 the same way as if he were a plumber, not another slap on
6 the wrist like he did last time.

7 MR. SHARGEL: If he were a plumber, I would be
8 making the same argument, if he had a four children with
9 a dysfunctional mother. If he were a plumber, I would be
10 making the same argument, he suffered from this type of
11 depression. If he were a plumber, I would be making the
12 same argument if he had this extraordinary post-arrest
13 rehabilitation.

14 You know, I would like to read the last --
15 actually, it's the last sentence of the ultimate
16 paragraph of the government's letter. "Indeed, it should
17 be noted that had the defendant gotten off the airplane
18 when he was asked first by the gate agents and then by a
19 federal marshal, he would not have been prosecuted."

20 He made a mistake not getting off the airplane
21 but this was not the crime of the century. The walls of
22 the Republic will not crumble if he is sentenced to a
23 non-custodial term. This would be, I will say it again,
24 because it can't be (inaudible) said, this would be
25 devastating if he were sent to prison. A life would be

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1 ruined.

2 MR. NORKIN: Your Honor, the government
3 concedes that this is not the crime of the century but to
4 sentence this man to probation would be very different
5 from all of the other defendants that are in this
6 courthouse. And it would be a sentenced based, it seems,
7 because he is a doctor and not a plumber.

8 THE COURT: No, it wouldn't be based on that.
9 One of the recommendations that was made by the probation
10 officer who prepared the report separate from
11 Mr. Garoppolo; I get his views in certain cases
12 independently, was that they also recommended a downward
13 departure of the advisory guidelines. But they have an
14 interesting suggestion here that seems to me to
15 accommodate both the necessity for some time in jail with
16 the concerns that you voice which is making -- let's just
17 set aside the number of days for the moment, making X
18 number of days of intermittent confinement, as a
19 condition of probation to be served on weekends. I don't
20 think that would have -- I think that could accommodate
21 what I agree with Mr. Garoppolo is that some period of
22 confinement here. On the other hand, it would not
23 decimate his practice.

24 And I think depending upon you know, the length
25 of the time it wouldn't necessarily pose an undue burden

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1 on his family So that's -- I thought that was a very
2 useful suggestion by the probation officer who actually
3 prepared this report.

4 MR. SHARGEL: You know, ordinarily when you ask
5 the defendant whether he has anything to say, he's
6 looking for a statement --

7 THE COURT: Well I haven't asked him yet.

8 MR. SHARGEL: I understand that.

9 THE COURT: But I am just giving you an
10 opportunity to address you know, a sentence that I am
11 seriously contemplating.

12 MR. SHARGEL: Well what I was starting to say
13 which is why -- let me do it this way. May I just have a
14 -- can I just speak to my client and then measure the
15 impact of such a sentence?

16 THE COURT: Right.

17 (Counsel and client confer)

18 THE COURT: Mr. Shargel?

19 MR. SHARGEL: Judge, would this conviction --
20 may I -- sorry, are we ready?

21 THE COURT: I would be shocked if you told me
22 you agreed with it but I just want to hear your
23 arguments.

24 MR. SHARGEL: Well here's my argument. When
25 the conviction occurred, Dr. Ismail lost his partners.

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1 They walked away.

2 THE COURT: I understand.

3 MR. SHARGEL: And if I may continue; he has no
4 one to cover his practice on the weekend. So he
5 essentially works seven days a week. I am not talking
6 about a full day but he works seven days a week because
7 he is not -- his patients aren't covered.

8 In addition to that, his wife is being
9 constantly monitored and could go back into a confinement
10 situation if she fails. And I will tell you candidly
11 right now, she is doing well but she is being monitored
12 every week. She sees a professional twice a week.

13 THE COURT: Look, I have -- my internist until
14 he retired a couple of months ago was a single
15 practitioner. And when he went away for the weekend,
16 another person covered for him. He didn't have partners.
17 It's not necessary to have partners to have somebody
18 cover for you on weekends.

19 MR. SHARGEL: It's a matter of building up --
20 ver the last year and a half, he's built up his
21 credibility again. It was a struggle and I think it
22 would damage his credibility.

23 THE COURT: All right. Let me --

24 MR. SHARGEL: Judge, may I just put this before
25 you? I don't want to belabor it. And I understand what

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1 you're saying. I full well understand what you're
2 saying. But in terms of societal interest, in terms of
3 the individual's needs, that's essentially what you're
4 really balancing here because I don't think -- I don't
5 know that it's that he needs those weekends to continue
6 his course of rehabilitation.

7 THE COURT: No, there is -- look, among other
8 factors in 3553 is fundamentally the need to deter
9 others. I mean, you know, this was a -- all right, the
10 plane wasn't in the air fortunately, so it didn't have to
11 land to deal with this problem but it had to turn around.
12 It had to go back to the boarding gate. People were
13 inconvenienced. He behaved like a jerk. You know, he
14 resisted the officers who had to carry him off the plane.
15 He was given a last chance to avoid all of this.

16 I mean I think the guidelines are way too high
17 here but I don't see this as a case that does not involve
18 -- that involves essentially walking out of here without
19 any jail consequence.

20 Do you wish to speak before I impose sentence?

21 THE DEFENDANT: Yes, sir. I have worked for
22 many years as a physician and I've had a very, very tough
23 time the past few years. I've had the most sobering, the
24 most humbling, the most humiliating experience. When
25 this all happened, the physician at work would assume

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1 that I am not a functioning physician and I can't
2 practice. I went for several evaluations. I've been
3 monitored weekly. I've done everything I am asked to do,
4 regardless of what it is. I have tried to keep my
5 practice together. The physicians that were with me
6 wouldn't cover me, wouldn't be part of my practice
7 period. The building that I am practicing in said
8 stay away from that building. Don't go see any doctor
9 there. I do not have anyone that supports me and my
10 practice or taking care of my business.

11 I have not saved any effort to do anything I am
12 asked to do for the past year and a half; not one thing,
13 regardless of what it is. I don't see -- I didn't think
14 I am going to get -- I worked very, very hard for the
15 past year and a half to get where I am now. I don't want
16 to go back to where I was. I have not questioned
17 anything that I am asked to do. I just do it.

18 I've learned the hard way. I did not argue. I
19 don't want -- I didn't say I am above anything I should
20 do. I don't want to go back to where I was a year and a
21 half ago. If I do anything wrong during the past --
22 during the next five years, anything, my license all they
23 have to do is they make a phone call and tell me stop
24 seeing patients.

25 May I have some water? I can't --

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1 MR. SHARGEL: Yes.

2 (Pause)

3 THE DEFENDANT: The Physician Network
4 Monitoring program deals with a physician that they call
5 impaired physician, as if they are a criminal, as they
6 are addicts, whether they are or not. They have to
7 follow all of the rules, otherwise they can't practice.

8 I tried not to miss a single day of work since
9 this happened. I've tried to take care of my family.
10 I've tried to have some normalcy in my children's life.
11 I don't know if I can handle more than what I have been
12 doing. I have not saved any effort to do the right
13 thing.

14 I've learned more than -- I've learned to just
15 do the right thing and not question anything I do to
16 prove credibility, and to go back to my normal life. I
17 have not done anything wrong since this happened. I
18 can't do anything wrong, your Honor.

19 Going to prison or jail is not going -- I'm
20 sorry, I am just -- I am not making this up, I am not
21 trying to -- I am not trying to -- I don't know, I am --
22 yes. I never thought I would ever get that far.

23 (Pause)

24 THE DEFENDANT: Your Honor, I am not making
25 this up.

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1 THE COURT: I can't hear you.

2 THE DEFENDANT: Your Honor, I am not making
3 this up. I have been trying to do the right thing for a
4 year and a half and I am willing to do the right thing as
5 long as I am asked to. But I need some normalcy in my
6 life to get back to where I should be with -- however I
7 acted, it's behind me now. I just want to move forward.

8 THE COURT: I am going to downwardly depart
9 from the advisory guideline range. The sentence that I
10 am about to give moots the unresolved question regarding
11 that three point enhancement. I am going to place the
12 defendant on probation for three years with a special
13 condition of probation , supervision, that the defendant
14 serve 90 days of intermittent confinement to be served on
15 weekends, that the defendant shall participate in an
16 outpatient and/or drug treatment or detoxification
17 program approved by the probation department. The
18 defendant shall pay the cost of such treatment or
19 detoxification to the degree that he or she is reasonably
20 able -- he, rather, is reasonably able and shall
21 cooperate in securing any applicable third party payment.

22 The defendant shall not consume any alcohol or
23 other intoxicants during and after treatment.
24 Detoxification unless granted a prescription by a
25 licensed physician and proof of the same is provided to

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1 the probation department, the defendant shall submit to
2 testing during and after treatment to insure abstinence
3 from drugs and alcohol. The defendant shall participate
4 in mental health treatment program as approved by the
5 probation department.

6 The defendant shall contribute to the cost of
7 such services rendered or any psychotropic medications
8 prescribed to the degree that he is reasonably able and
9 shall cooperate in securing any applicable third party
10 payment.

11 And the defendant shall disclose all financial
12 information and documents to the probation department to
13 assess his ability to pay both for the -- any drugs or
14 other treatment.

15 Now the defendant shall not possess a firearm,
16 ammunition or destructive device. And I also impose a
17 \$100 special assessment.

18 I have downwardly departed essentially for the
19 reasons that are set out in the recommendation of the
20 probation department. It was written before the
21 defendant's wife was returned home but I think that fact
22 does not change the basis for the downward departure;
23 that is, the probation department wrote that the
24 defendant's spouse suffers from depression and
25 prescription drug use, and is presently in a residential

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1 treatment program in Georgia. The couple has four
2 children ranging from three to 10. They are being cared
3 for by the defendant with the assistance of his brother.

4 The illness of his spouse, combined with his
5 significant employment obligations appear to have created
6 a very stressful environment for the defendant. Further,
7 when his spouse returns home, she will likely require
8 significant amount of support from the defendant in order
9 to remain drug-free.

10 In addition to coping with his family issues,
11 the defendant also struggles with cyclothymic disorder
12 which is a form of bipolar disorder characterized by
13 alternating periods of depression and hypomania. It is
14 possible that his behavior in the instant offense was
15 brought on by this condition.

16 Nevertheless, the defendant has demonstrated
17 reckless behavior dating back to at least 1994 and
18 consequences imposed for the above motor vehicle offenses
19 which they elude to earlier, have clearly have had no
20 impact on his conduct.

21 The imposition fo a sentence below the advisory
22 guideline range is viewed as reasonable in view of his
23 mental health and extraordinary family responsibilities.
24 However, intermittent confinement is necessary to meet
25 the requirements of punishment and deterrence.

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1 MR. SHARGEL: Judge, just one point of
2 clarification, if I may. The order or condition of
3 probation that requires him to participate in a program,
4 I was wondering if you would specifically say that he
5 continue under the terms of his contract, being monitored
6 for Professional Resources Network (sic).

7 THE COURT: Yes.

8 MR. SHARGEL: Apparently it is working.

9 THE COURT: Yes. Why don't you just send me a
10 -- so when she types up the judgment, I will put that in.

11 MR. SHARGEL: Very well.

12 THE COURT: Okay.

13 MR. SHARGEL: Judge, could you also recommend
14 at the bottom of the judgment and commitment that he
15 serve in a facility, obviously if it's weekends, that is
16 close to his home.

17 THE COURT: Yes, yes.

18 MR. SHARGEL: And may we have a post-holiday
19 surrender in early January, to begin serving the
20 weekends.

21 THE COURT: Yes.

22 THE CLERK: You said until any time after
23 January 3?

24 MR. SHARGEL: That's fine.

25 THE CLERK: Right to appeal?

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1 THE COURT: Mr. Ismail, you have a right to an
2 appeal. If you can't afford to pay the filing fee --

3 THE DEFENDANT: Sorry?

4 THE COURT: You have a right to an appeal both
5 from the sentence and from any errors that may have been
6 made at the trial. If you can't afford to pay the filing
7 fee to file a notice of appeal, I would allow you to file
8 a notice of appeal without paying it.

9 Do you understand?

10 THE DEFENDANT: Okay.

11 THE COURT: You'll file it.

12 THE CLERK: Did you understand your right to an
13 appeal?

14 THE DEFENDANT: Yes.

15 MR. SHARGEL: I will be filing a notice of
16 appeal within ten days.

17 THE COURT: Okay.

18 MR. SHARGEL: And then Mr. -- Dr. Ismail can
19 determine whether he wants to go forward.

20 THE COURT: Okay.

21 MR. NORKIN: Thank you, Judge.

22 (Matter concluded)

23 -o0o-

24

25

C E R T I F I C A T E

I, ROSALIE LOMBARDI, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 10th day of December , 2009.


Rosalie Lombardi
Transcription Plus II